

THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No. 26583 of 2000

Date: 20.04.2007

Between:

Karri Satyanarayana Murthy and another

..Petitioners.

and

The Revenue Divisional Officer,
Kakinada, East Godavari District
and another.

..Respondents

THE HONOURABLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.26583 of 1999

ORDER:

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This Writ Petition is filed by the petitioners challenging the action of the 1st respondent in demolishing their buildings and further the action of the respondents in seeking to dispossess them and assigning the lands in their occupation, which are in an extent of 7 cents in sy.no.31/1A1 and 4.5 cents in sy.no.31/1A1 situated in Medaline village, Kakinada, East Godavari district, respectively to third parties, as illegal and arbitrary.

2. Facts, in brief, are:- Under an impression that Sri Pilli Venkataramana has title over an extent of 7 cents of land in sy.no.31/1A1 situated at Medaline village, Kakinada, East Godavari district, the first petitioner purchased the same on 09.06.1967 under a sale deed dated 09.06.1967 for a sum of Rs.5,000/- and thereafter he started a fire wood depot in the said land. Subsequently, he constructed a shed on the said land by spending a sum of Rs.50,000/-. Thereafter, on coming to know that Sri Pilli Venkataramana has no title over the land, which he purchased from him, and the said lands belongs to the Government, he applied for assignment of the land.

Further, the first petitioner submits that the second petitioner during the year 1968 has applied to the Government for assignment of 4.5 cents of land in sy.no.31/1A1 situated at Medaline Village,

Kakinada, East Godavari, on payment of market value as was done in the case of several others in that locality and under an impression that the Government would grant assignment in favour of the second petitioner, in the year 1968, he constructed a tiled house on it by spending Rs.75,000/-. However, the Government has not assigned the lands to the petitioners and the Revenue Authorities are collecting encroachment fee regularly and also the petitioners have been paying taxes regularly.

While the matter stood thus, on 07.12.1999 at about 5.00 p.m., the 1st respondent accompanied by the Executive Engineer, R & B, Kakinada, East Godavari district, and police, without any prior notice of whatsoever, demolished the residential buildings of the petitioners. Aggrieved by the action of the respondents in demolishing their buildings, the present writ petition is filed.

3. The respondents filed a detailed counter denying all the material allegations made by the petitioners in their affidavit. The respondents strenuously contended that in order to protect canal bunds from encroachments by providing greenery, a circular Memo No.93194/ASN-I(1)/98-1 Rev (ASN-I) Department, dated 08.12.1998, was issued by it requesting all the Collectors to initiate action accordingly with a compliance report to it urgently. Pursuant to the said Memo, the Executive Engineer, APHM & CERP Division, Kakinada, evicted the encroachments on the canal bunds including the lands of the petitioners on 07.12.1999 and possession of the evicted extents were handed over to the Mandal Revenue Officer, Kakinada on 08.12.1999.

Further, the respondents contended that the petitioners

themselves have admitted that they constructed houses in the said lands without obtaining permission or assignment order for the same. The respondents contend that it is the Executive Engineer, A.P.H.M. & ECRP, who carried out the said evictions on 07.12.1999 in obedience to the Government circular instructions and handed over the same to the Mandal Revenue Officer, Kakinada, and the respondents are in no way concerned with the eviction of encroachments.

4. Heard the learned counsel for the petitioners and the Government Pleader for Assignment.

5. The learned Government Pleader for Assignment representing the respondents submitted that the respondents are in no way concerned with the said eviction of encroachments and it is only the Executive Engineer, A.P.H.M. and ECRP Division, who carried out the said encroachments.

6. According, in the light of the said statement made by the respondents herein, no writ can be issued against the respondents.

7. In the result, the Writ Petition is dismissed. No order as to costs.

(GOPALA KRISHNA TAMADA,J)

20.04.2007

v v